

REMARKS/ARGUMENTS

Claims 1-16 are pending. Claims 1 and 4 have been amended. Support for the amendment can be found at least at paragraph [0049] and FIGS. 14-18. No new matter has been added with this amendment. Reconsideration of this Application and entry of this Amendment is respectfully requested.

35 U.S.C. §102 Rejections

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the . . . claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Thus, to warrant the §102(b) rejections, the references cited by the Examiner must show each and every limitation of the claims in complete detail. The Applicant respectfully asserts that the cited references fail to do so.

A. Claims 1-4, 7, and 13-16 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Pub. No. 20020035361 to Houser et al., (the Houser publication).

This rejection is traversed. The Applicant respectfully asserts that the Houser publication fails to include each and every element of the Applicant's invention as claimed, as required to maintain a rejection under 35 U.S.C. §102(b). *See* MPEP 2131. The Applicant asserts that the Houser publication fails to disclose, teach, or suggest:

1) a girdle for surrounding a plurality of chordae tendinae comprising a filamentous body comprising a shape memory material to allow a transition between a linear delivery configuration and an annular treatment configuration, wherein in the annular treatment configuration the filamentous body comprises an inner diameter having a size to contact the plurality of chordae tendinae and to draw the plurality of chordae tendinae closer together to form a bundle of shortened chordate tendinae, as recited in claim 1;

2) a system for treating a heart valve comprising an elongate delivery catheter having a lumen; and a girdle having an annular treatment configuration sized and shaped to surround a plurality of chordae tendinae of the heart valve and to draw the plurality of chordae tendinae closer together to form a bundle of shortened chordate tendinae, the girdle having a

linear delivery configuration sized and shaped to be releasably disposed within the lumen of the delivery catheter, as recited in claim 4; and

3) a method for treating a heart valve comprising delivering a girdle in a lumen of a catheter adjacent the heart valve; releasing the girdle; and encircling a plurality of chordae tendinae of the heart valve with the girdle, as recited in claim 13.

The Houser publication teaches various methods and apparatuses for treating valvular disease. However, the Houser publication does not teach the device, system and method for treating a heart valve claimed by the Applicant in as complete a detail as required to sustain this rejection. At most, the Houser publication teaches a mechanical reconfigurer 306 for reconfiguring a chordae tendinae such that the chordae tendinae assumes a zig-zag configuration. The Houser publication does not teach that mechanical reconfigurer 306 is sized and shaped to contact and surround a plurality of chordae tendinae or teach a method for encircling a plurality of chordae tendinae as claimed by the Applicant. For at least these reasons, independent claims 1, 4 and 13 are not anticipated by the Houser publication.

Claims 2 and 3 depend from independent claim 1 and add further features to that claim. For at least this reason claims 2 and 3 are not anticipated by the Houser publication. Claim 7 depends from independent claim 4 and adds further features to that claim. For at least this reason claim 7 is not anticipated by the Houser publication. Claims 14-16 depend from independent claim 13 and add further features to that claim. For at least this reason claims 14-16 are not anticipated by the Houser publication.

For these reasons, the withdrawal of the rejection of claims 1-4, 7, and 13-16 under 35 U.S.C. § 102(b) is respectfully requested.

B. Claims 4-8, 10 and 11 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,402,781 to Langberg et al., (the Langberg patent).

This rejection is respectfully traversed. The Applicant asserts that the Langberg patent fails to include each and every element of the Applicant's invention as claimed, as required to maintain a rejection under 35 U.S.C. §102(b). *See* MPEP 2131. The Applicant asserts that the Langberg patent fails to disclose, teach, or suggest a system for treating a heart valve comprising an elongate delivery catheter having a lumen; and a girdle having an annular treatment configuration sized and shaped to surround a plurality of chordae tendinae of the heart valve and to draw the plurality of chordae tendinae closer together to form a bundle of shortened chordate

tendinae, the girdle having a linear delivery configuration sized and shaped to be releasably disposed within the lumen of the delivery catheter, as recited in claim 4.

The Langberg patent teaches an elongate flexible body 102 that is looped through and resides in the coronary venous system to form a ventricular girdle 100 (see, col. 11 line 61 to col. 12 line 10 and FIGS 5 and 6). The Langberg patent does not teach that the elongate flexible body has an annular treatment configuration sized and shaped to surround a plurality of chordae tendinae of the heart valve and to draw the plurality of chordae tendinae closer together to form a bundle of shortened chordate tendinae, as recited in claim 4. In fact nowhere within the Langberg patent does it teach or suggest an elongate flexible body that is configured to contact, surround and shorten a plurality of chordae tendinae as claimed and described by the Applicant. For at least these reasons, independent claim 4 is not anticipated by the Langberg patent.

Claims 5-8, 10 and 11 depend from independent claim 4 and add further features to that claim. For at least this reason claims 5-8, 10 and 11 are not anticipated by the Langberg patent. For these reasons, the withdrawal of the rejection of claims 4-8, 10 and 11 under 35 U.S.C. § 102(b) is respectfully requested.

35 U.S.C. §103 Rejections

Obviousness is a question of law, based on the factual inquiries of 1) determining the scope and content of the prior art; 2) ascertaining the differences between the claimed invention and the prior art; and 3) resolving the level of ordinary skill in the pertinent art. *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In *re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). See MPEP 2143.03. The Applicant respectfully asserts that the cited references fail to teach or suggest all the claim limitations.

- C. Claims 9 and 12 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Langberg in view of US 5,618,299 Khosravi et al., (the Khosravi patent)

This rejection is traversed. The Applicant respectfully asserts that the Langberg patent and the Khosravi patent, alone or in combination, fail to disclose, teach, or suggest all the claim limitations of dependent claims 9 and 12. As provided above in Section B, the Langberg patent does not teach or suggest all of the claim limitations of independent claim 4. The Khosravi patent does not cure these defects.

Claims 9 and 12 depend from independent claim 4 and include all of the elements and limitations of independent claim 4 and, thus, are allowable for at least the same reasons as those stated above for claim 4. Furthermore, where an independent claim is non-obvious, any claim depending therefrom is also non-obvious. *See*, MPEP 2143. Applicants, therefore, request the withdrawal of the rejection of dependent claims 9 and 12 under § 103(a).

CONCLUSION

For the foregoing reasons, Applicant believes all the pending claims are in condition for allowance and should be passed to issue. The Commissioner is hereby authorized to charge any additional fees which may be required under 37 C.F.R. 1.17, or credit any overpayment, to Deposit Account No. 01-2525. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at telephone (707) 543-5484.

Respectfully submitted,

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